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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/717,753 | 11/20/2003 | Conrad Sexton | BAI525-986/03394 | 8804 |
| 24118 | 7590 | 07/06/2005 | EXAMINER | |
| HEAD, JOHNSON & KACHIGIAN 228 W 17TH PLACE TULSA, OK 74119 | | | MAY, ROBERT J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2875 | |

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/717,753

Applicant(s)

SEXTON ET AL.

Examiner

Robert May

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-29 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/20/2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because the abstract contains claim term "comprising". The applicant is reminded that form and legal phraseology often used in patent claims should be avoided. Correction is required. See MPEP § 608.01(b).

The Office objects to the spelling of the word invertor. The Office suggest to the applicant to correct the spelling to "inverter".

Claim Objections

Claim 2 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 1 claims a means to allow the illumination of electroluminescent means to fade in/out of at least one illumination sequence. Claim 2 claims a card where the illumination of electroluminescent means fades in from either an off condition or from a previous illumination sequence to an on condition. The office fails to see how Claim 2 limits the parent and claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5-7, 9-10, 14-20, & 23-27, & 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Chien (US Pat. 6,082,867).

With regard to Claims 1-2, Chien discloses in Figure 8, a card with two sides adjacent to each other and moveable between a closed and open position with an electroluminescent (EL) means (134) with electronic circuitry for the lighting element (134) to be turned on for various periods of time to provide special effects selected from the group consisting of flashing, steady on, chasing, random, and fade-in/fade out effects (Col 8, Lines 25-30).

With regard to Claims 5-6, Chien discloses a control circuit in the form of an integrated circuit for capable of actuating a switch in a variety of patterns responsive to the setting of a selector switch, light sensing switch and/or microphone (Col 8, Lines 11-20) and can be replaced by an inverter circuit for outputting pulses which enable special effects such as fading in or out (Col 8, Lines 24-30).

With regard to Claim 7, 20, & 23-25, Chien discloses the inverter circuit as having a means for outputting pulses enabling the electro-luminescent means to be turned on

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for various periods of time in order to provide effects such as flashing or fading in or out (Col 8, Lines 25-30). The office construes the inverter circuit to be a sequence controlling means. Furthermore, Chien discloses that the inverter circuit can be a replacement for circuits capable of actuating the switch in a variety of patterns which can supply pulses to cause the EL circuit to turn on and off at an appropriate frequency or timing which can be adjusted by an inductor or transformer connected between the drive transistor and EL lighting element (Col. 8, Lines 14-21).

With regard to Claim 9, Chien discloses in Figure 1E, a power source (24) and a switch system (27) wherein electrical connections connect the power source, switch system, and electroluminescent means (29).

With regard to Claim 14-19, Chien discloses the switch for turning on the electroluminescent means as being sensitive to such conditions as ambient light, vibrations, humidity, heat, sound, tilt, movement of a rolling ball, and so forth (Col. 8, Lines 35-37).

With regard to Claim 26, Chien discloses that dynamic variation of the color of the EL means is achieved by using a variable frequency output circuit in conjunction or as a part of the circuit, which varies the outputting pulses of the EL lighting elements that changes the color performance of the EL lighting elements (Col. 4, Lines 30-34).

With regard to Claim 27 & 29, Chien discloses that one or more mechanical or electrical switches maybe present which are sensitive to a variety of detectable conditions such as ambient light, vibrations, humidity, heat, sound, tilt, movement of a rolling ball, and so forth (Col 8, Lines 33-37).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chien.

In regard to Claims 3-4, Chien discloses all of the elements as disclosed in Claim 1, but does not explicitly disclose the fade in/out as happening in a step-wise or smooth like manner. It is generally obvious to one of ordinary skill to either have a fade in/out characteristic of a light source happen in either a step-wise or smooth like manner. Therefore it would generally be obvious to one of ordinary skill to have the illumination of the EL means fade in/out in either a step-wise or smooth like manner because

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inherently fading in or out involves either fading in a smooth like manner or a step wise manner.

Claims 8 & 28 are rejected under 35 USC 103(a) as being unpatentable over Chien in view of a publication by Chapchal (CDT's Light Emitting Polymer Displays-1999). Chien discloses all of the elements of Claim 1 with the exception of using a light-emitting polymer (LEP) as the EL means. Chapchal discloses that the LEP has a low profile characteristic because it does not require additional elements as required by other conventional sources of light (Pg 2, Col. 2, 2nd Para) and are flexible, thin and has a low entry cost to the market (Pg 3, Col 1). Furthermore, it would be obvious to one of ordinary skill in the art to merely add additional LEP's in order to enhance the visual effect and add to the aesthetic appeal of the greeting. Furthermore, it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8 (CA7 1977). Therefore, it would be obvious to one of ordinary skill to have at least one LEP as in EL means because they are thin, flexible and have a low entry cost to the market as well as having additional LEP's in order to enhance the visual appeal of the greeting card.

Claims 10-13 are rejected under 35 USC 103(a) as being unpatentable over Chien in view of Wilbur (US Pat. 4,363,081).

In regard to Claims 10-11, Chien discloses all of the elements of Claim 1 however Chien fails to explicitly disclose a switch being moved between on and off conditions upon moving the first and second panels of the greeting card into an open and closed position. Wilbur discloses in Figures 1-3, a switch (44) that turns the EL lighting means on or off upon opening or closing the panels in order to enable an efficient and reliable illuminated greeting card (Col. 1 Lines 34-35) and it is generally known to someone with ordinary skill in the art that a greeting card which illuminates upon opening will attract more attention and is visibly more appealing. Therefore it would be obvious to one of ordinary skill to combine the card of Chien with the switch of Wilbur in order to have a card, which is efficient, reliable, attracts attention, and is visibly appealing.

In regard to Claims 12-13, Wilbur discloses in Fig. 3, a panel that covers the circuitry being the switch (44) and switch contacts (46 & 48) and it is generally obvious to one of ordinary skill in the art to use adhesive, clips or staples to fasten panels or portions of a greeting card.

Claims 21-22 are rejected under 35 USC 103(a) as being unpatentable over Chien (US Pat. 6,082,867). It would have been obvious to one of ordinary skill in the art to use a chip wound or wire wound inverter, since applicant has not disclosed that using a chip wound or wire wound inverter solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with a conventional inverter known to one of ordinary skill.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schmidt (US Pat. 4,055,014) and Wilson (US Pat. 4,299,041) disclose a Lighted Greeting Card, Kaufman (US Pat. 4,209,824) discloses an illuminated book, Chien (US Pat. 5,572,817) discloses a illuminated card with multiple colors and circuitry, and McTaggart (US Pat 6,021,306) discloses a book with various illuminated visual elements and means to control elements.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert May whose telephone number is (571) 272-5919. The examiner can normally be reached between 9 am– 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval PAIR system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sandra O'Shea
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